

Indiana Rules of Trial Procedure

Rule 12. Defenses and objections -- When and how presented -- By pleading or motion -- Motion for judgment on the pleadings.

(A) When presented. The time allowed for the presentation of defenses and objections in a motion or responsive pleading shall be computed pursuant to the provisions of Rule 6(C).

(B) How presented. Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive pleading thereto if one is required; except that at the option of the pleader, the following defenses may be made by motion:

- (1) Lack of jurisdiction over the subject matter,
- (2) Lack of jurisdiction over the person,
- (3) Incorrect venue under Trial Rule 75, or any statutory provision. The disposition of this motion shall be consistent with Trial Rule 75,
- (4) Insufficiency of process;
- (5) Insufficiency of service of process;
- (6) Failure to state a claim upon which relief can be granted, which shall include failure to name the real party in interest under Rule 17;
- (7) Failure to join a party needed for just adjudication under Rule 19;
- (8) The same action pending in another state court of this state.

A motion making any of these defenses shall be made before pleading if a further pleading is permitted or within twenty [20] days after service of the prior pleading if none is required. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, any of the defenses in section (B)(2), (3), (4), (5) or (8) is waived to the extent constitutionally permissible unless made in a motion within twenty [20] days after service of the prior pleading. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. ~~If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, he may assert at trial any defense in law or fact to that claim for relief.~~
